

September 9, 2005

Mr. William Lee, Project Manager
de maximis, Inc.
186 Center Street
Suite 290
Clinton, NJ 08809

**RE: Bayonne Barrel and Drum
Courtyard and Ash Pile Waste Disposal - Letter No. 4**

Dear Mr. Lee:

This correspondence is in response to your letter (**Letter No. 4**) dated August 4, 2005, and delivered via electronic and regular US mail service, submitted on behalf of your clients, the group of potentially responsible parties (PRP Group) performing work pursuant to Administrative Order on Consent CERCLA Docket No. 02-2004-2006. Your August 4, 2005 letter sets out how the PRP Group proposes to respond to my request to address several areas of deficiency related to the disposal of courtyard and ash pile wastes at the Bayonne Barrel and Drum Site.

1. Waste Profiles:

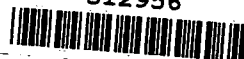
Again, RCRA regulations require that if a generator's waste is listed in 40 CFR Part 261, Subpart C or Subpart D, Lists of Hazardous Wastes, under 40 CFR 268.7 are applicable and include specific regulatory requirements for generators managing a waste subject to land disposal restrictions. Those applicable to the Bayonne Barrel and Drum Site include;

If the waste or contaminated soil does not meet the treatment standard: With the initial shipment of waste to each treatment or storage facility, the generator must send a one-time **written notice** to each treatment or storage facility receiving the waste, and place a copy in the file. **The notice must include the information in column "268.7(a)(2)" of the Generator Paperwork Requirements Table in Sec. 268.7(a)(4).**

The Generator Paperwork Requirements Table in section 268.7(a)(4) column 2 require the following;

1. EPA Hazardous Waste Numbers and Manifest Number of first shipment.
2. The waste is subject to the LDRs. The constituents of concern for F001-F005, and F039, and **underlying hazardous constituents in characteristic wastes**, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice.
3. The notice must include the applicable wastewater/ nonwastewater category (see Sec. Sec. 268.2(d) and (f)) and subdivisions made within a waste code based on waste-specific criteria

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(such as D003 reactive cyanide)

4. Waste analysis data (when available).

5. For contaminated soil subject to LDRs as provided in Sec. 268.49(a), the constituents subject to treatment as described in Sec. 268.49(d), and the following statement: This contaminated soil [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and [is subject to/complies with the soil treatment standards as provided by Sec. 268.49(c) or the universal treatment standards.

6. A certification is needed (see applicable section for exact wording).

No further notification is necessary until such time that the waste or facility change, in which case a new notification must be sent and a copy placed in the generator's file. (i) For contaminated soil, the following certification statement should be included, signed by an authorized representative: I certify under penalty of law that I personally have examined this contaminated soil and it [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and requires treatment to meet the soil treatment standards as provided by 268.49(c).

To date you have not provided or indicated that you will provide the TSDF with the information required, specifically requirements 2, and 5.

Prior to the shipment off-site of the ash piles and rubbery residue, EPA would like to review the necessary documentation for accuracy and completeness.

Please provide a copy of the final version of the waste profile, with a list of UHCs attached, and the required certification.

Again, I acknowledge that you previously provided copies of the waste profiles for the ash piles and the "rubbery residue" (the courtyard waste) but they are copies of the initial profiles sent to Clean Harbors and not final completed profiles. The final profiles (which I requested) are assigned a profile number upon receipt by the TSDF. The TSDF identifies the profile by the profile number in the letter of acceptance or rejection. The profiles you provided EPA lacked profile numbers. A copy of the completed document was requested and is needed. Without the profile number, the Notices of Acceptance from Clean Harbors cannot be correlated with the appropriate waste profiles.

2. Site Specific Health and Safety Plan (SSHASP) - Addendum #1

2.1 Task specific Protection Levels - Decontamination of Trucks and Equipment the use of modified Level D during the conduct of this task is unacceptable as the potential for exposure is high. Minimum of level C is required.

3.0 Hazard Evaluation - Section 3 of the original SSHASP (Table 2) only addresses lead, dioxin, mercury, and PCBs the additional individual chemical constituents identified by sampling and analysis and listed as chemical hazards in this section should be include as contaminants of concern.

The Hazard Analysis in the Addendum list equipment decontamination as a moderately high and the original SSHASP assigns the same task a high level of potential exposure these documents should be consistent.

5.0 Air Monitoring

5.1 Dust Monitoring - As the action level of 1.554 mg/m³ would result in visible dust storm therefore it is suggested that if any visible dust is detected in the exclusion zone that engineering controls be implemented.

5.2 Organic Vapor Monitoring - OSHA 1910.120 has specific regulatory requirements for air monitoring at hazardous waste operations, those applicable to the Bayonne Barrel and Drum Site include;

(iv) An ongoing air monitoring program in accordance with paragraph (h) of this section shall be implemented after site characterization has determined the site is safe for the start-up of operations.

(h) Monitoring--(1) General. (i) Monitoring shall be performed in accordance with this paragraph where there may be a question of employee exposure to hazardous concentrations of hazardous substances in order to assure proper selection of engineering controls, work practices and personal protective equipment so that employees are not exposed to levels which exceed **permissible exposure limits**, or published exposure levels if there are no permissible exposure limits, for hazardous substances. (ii) Air monitoring shall be used to **identify and quantify airborne levels of hazardous substances** and safety and health hazards in order to determine the appropriate level of employee protection needed on site. (2) Initial entry. Upon initial entry, representative air monitoring shall be conducted to identify any IDLH condition, exposure over permissible exposure limits or published exposure levels, exposure over a radioactive material's dose limits or other dangerous condition such as the presence of flammable atmospheres or oxygen-deficient environments. (3) **Periodic monitoring**. Periodic monitoring shall be conducted when the possibility of an IDLH condition or flammable atmosphere has developed or when there is indication that exposures may have risen over permissible exposure limits or published exposure levels since prior monitoring. Situations where it shall be considered whether the possibility that exposures have risen are as follows: (i) When work begins on a different portion of the site. (ii) When contaminants other than those previously identified are being handled. (iii) When a different type of operation is initiated (e.g., drum opening as opposed to exploratory well drilling). (iv) When employees are handling leaking drums or containers or working in areas with obvious liquid contamination (e.g., a spill or lagoon). (4) **Monitoring of high-risk employees**. After the actual clean-up phase of any hazardous waste operation commences; for example, **when soil, surface water or containers are moved or disturbed; the**

employer shall monitor those employees likely to have the highest exposures to hazardous substances and health hazards likely to be present above permissible exposure limits or published exposure levels by using personal sampling frequently enough to characterize employee exposures. If the employees likely to have the highest exposure are over permissible exposure limits or published exposure limits, then monitoring shall continue to determine all employees likely to be above those limits. The employer may utilize a representative sampling approach by documenting that the employees and chemicals chosen for monitoring are based on the criteria stated above.

In addition, because of the presence of lead at the site OSHA Standard 29 CFR, 1926.62 Lead Exposure In Construction would also be applicable and include specific regulatory requirements for air monitoring. Those applicable to the Bayonne Barrel and Drum Site include;

If lead is present in your workplace in any quantity, your employer is required to make an initial determination of whether any employee's exposure to lead exceeds the action level (30 $\mu\text{g}/\text{m}^3$ averaged over an 8-hour day). Employee exposure is that exposure which would occur if the employee were not using a respirator. This initial determination requires your employer to monitor workers' exposures unless he or she has objective data which can demonstrate conclusively that no employee will be exposed to lead in excess of the action level.

3. Sequence of activities:

Prior to approving the work proposed, I will need to see a detailed load out schedule.

Would it not be possible to unload, dump and/or stockpile only the number of roll-offs that would accommodate the loading of the intermodals scheduled for a particular day? This would eliminate or minimize the size of the stockpile. If the load out can be accomplished in two or more days (as stated), the cost renting a roll-off frame should not be prohibitive.

As always, if you have any questions I am available for discussion of the above.